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RECORD OF UNDERSTANDING
BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF AMERICA
AND CANADA REGARDING AREAS OF AGRICULTURAL TRADE

In the spirit of friendship and frankness that characterizes relations between our countries, the Governments of Canada and the United States of America have undertaken to discuss and resolve key issues in bilateral agricultural trade.

Recognizing that agricultural and agri-food products comprise an important component of our vibrant and mutually beneficial bilateral trading relationship, the Governments of Canada and the United States jointly reaffirm their commitment to maintaining an open and dynamic trading relationship in these products.

Canada and the United States affirm their commitment to market-oriented agricultural policies and ongoing efforts to promote more open and fairer trade in agricultural products. Canada and the United States further agree that actions that disrupt trade should be avoided and commit to address issues before they become problems as the preferred way of resolving bilateral trade differences.

Canada and the United States have agreed to work together to increase the broad dissemination of basic facts about our bilateral agricultural trade and its impact on our agricultural and agri-food industries, particularly in the grains and livestock/red meats sectors.

Canada and the United States also note the importance which our respective states and provinces attach to trade in agricultural products, and strongly support an increased dialogue on these issues at the state-province level.

Canada and the United States emphasize the importance of Chapter 7 of the North

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American Free Trade Agreement (NAFTA) on Agriculture and Sanitary and Phytosanitary Measures, and the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures, which require the application of objective, science-based criteria as the basis for sanitary and phytosanitary measures. Chapter 9 of the NAFTA on Standards-Related Measures and its associated annexes and the WTO Agreement on Technical Barriers to Trade govern the development and application of technical requirements by Canada and the United States .

We agree that inspections will be based on scientific and technical principles. We reject the unjustified use of these or other technical measures as barriers to legitimate trade.

The Canadian Minister of Agriculture and Agri-Food and the U.S. Secretary of Agriculture will meet at least annually to review the state of our bilateral agricultural trade, to address any problems that might arise, and to foster greater cooperation between the two countries on issues of common interest in other international fora. Sub-Cabinet level officials will meet at least twice per year to ensure that progress continues to be made on issues affecting access to each other's markets. Officials will meet within 30 days to continue discussions of the resolution of outstanding agricultural issues and review progress of implementation of the agreement.

Canada and the United States agree to improve the management of bilateral agricultural trade relations by establishing a comprehensive early-warning and consultation process to resolve problems at an early stage in their development.

Canada and the United States encourage the private sector, through industry associations, to engage in a similar cross-border dialogue to increase our mutual understanding and our determination to resolve differences through consultation and discussion. For this purpose, Canada and the United States agree to urge industry to

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establish bilateral industry consultative mechanisms for grains, livestock and meats, and horticultural products.

Canada and the United States reiterate their strong commitment to resolving expeditiously any issues that might be brought to the attention of the respective governments in a way that is consistent with rights and obligations under the applicable international trade agreements. More specifically, Canada and the United States reaffirm their commitment as contained in international trade agreements to ensure that all necessary measures are taken to meet the obligations as contained in those agreements, including their observance by state and provincial governments.

The Governments of Canada and the United States have agreed to the attached comprehensive action plan, set forth in Annexes 1 to 17, aimed at facilitating and expanding Canada-U.S. bilateral trade in agriculture and agri-food products. The Annexes are an integral part of this Record of Understanding.

For the Government of the United States of America

_____/s/
Charlene Barshefsky
United States Trade Representative

_____/s/
Dan Glickman
Secretary of Agriculture

For the Government of Canada

_____/s/
Sergio Marchi
Minister for International Trade

_____/s/
Lyle Vanclief
Minister of Agriculture and
Agri-Food Canada

_____/s/
Ralph Goodale
Minister of Natural Resources
and Minister Responsible for the
Canadian Wheat Board

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UNITED STATES - CANADA ACTION PLAN
REGARDING AREAS OF AGRICULTURAL TRADE

This action plan is designed to strengthen and expand Canada-U.S. agricultural trade relations. It consists of 17 annexes as follows:

1. Import of U.S. Slaughter Swine
2. Expansion of Northwest Cattle Project for Restricted Feeder Cattle
3. Animal Health Regionalization
4. Other Animal Health Issues
5. Exchange of Cattle Data
6. In-Transit Movement of Grain by Rail
7. Wheat Access Facilitation Program
8. Phytosanitary Requirements for the Importation of U.S. Wheat
9. Other Grain Related Issues
10. Seed Trade
11. Export Subsidies (Oats)
12. Veterinary Drugs
13. Pest Control Products
14. Horticulture
15. Joint Cooperation on Biotechnology
16. Labeling
17. Sugar-Containing Products

1. Import of U.S. Swine for Immediate Slaughter

On December 3, 1998, Canada passed regulations that will allow U.S. slaughter swine to enter Canada from eligible states without the testing and quarantine restrictions that are applied to breeding animals. The regulations governing the import of U.S. slaughter swine are comprehensive. Importation under permit will be allowed to a previously approved plant. The animals must originate from states that have reached Stages IV or V under the U.S. Pseudorabies Eradication Program and travel to the Canadian plant along defined routes and within defined time frames.

2. Expansion of the Northwest Cattle Project for Restricted Feeder Cattle

The Canadian "restricted feeder" regulations (Northwest Cattle Project) were amended on August 7, 1998. "Restricted feeders" that originate from approved states may be exported to Canada during the fall and winter months without test. The imported animals are treated for anaplasmosis following their arrival and are then permitted to move without restriction. To qualify to export under the new regulations, states must be officially free of bovine brucellosis and tuberculosis and be classified by Canada as low risk for bluetongue. Feeder cattle have been entering Canada from Montana and Washington State under the provisions of the new regulations. States that meet the same criteria and whose cattle producers wish to export to Canada under the regulatory provisions for restricted feeders are encouraged to contact the Canadian Food Inspection Agency (CFIA). Under normal circumstances, CFIA will evaluate and approve states within 2 weeks of request, dependent on the adequacy of information provided.

Importation under permit is allowed only to previously approved premises. In the United States, the health certification of the animals and validation of their identification is completed by a U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA-APHIS) accredited veterinarian; there is no USDA endorsement of the export certificate required.

If a country imposes new duties on cattle trade, the other country may rebalance commitments made under this section for the duration of the duty increase.

3. Animal Health Regionalization - Recognition of the Health Status of States/Zones

Canada has initiated a review of regulations governing the import of animals and their products, with a focus on the principles of zoning and regionalization. The process is scheduled for discussion at the Canadian Animal Health Consultative Committee meeting in December 1998. Both parties expect that Canada will publish a final regulation during the first quarter of 2001.

4. Other Animal Health Issues

Brucellosis and Tuberculosis (TB) Requirements

As part of the cooperative brucellosis program, some states have mandatory brucellosis vaccination requirements for cattle within the state or imported from other states or countries. Some states also have additional testing and/or certification requirements for a number of diseases beyond the U.S. federal import requirements. The following steps will be taken to address this issue:

- The U.S. Department of Agriculture will obtain an updated list of U.S. state vaccination and test requirements for brucellosis and TB for Canadian cattle by January 1999 and provide the list to the Canadian Food Inspection Agency.
- The United States will notify state veterinarians of Canada's animal health status no later than January 1999 and will work with states and industry to address inconsistencies between U.S. state and federal requirements. Discussion between the USDA, state authorities, and industry will be scheduled during the October 1999 U.S. Animal Health Association Meetings at which time states will be given the opportunity to provide reports on actions to be taken to address these inconsistencies.

Equine Semen Imports

The United States requires an import permit and health certification for imports of equine semen from Canada. The United States agrees to initiate the regulatory process to change these regulations to eliminate the permit and certification requirements for equine semen imports from Canada and endeavor to implement a final rule eliminating these permit and certification requirements not later than January 2000.

Inspection of Live Horses

The United States currently has regulations requiring inspection at the border of all Canadian horses presented for permanent entry. Horses presented for temporary entry are not required to be inspected. The United States will initiate the regulatory process to eliminate the inspection requirement for all horses and implement a final rule eliminating this requirement by August 2000.

5. Exchange of Cattle Data

Canada and the United States will cooperate in the exchange of data on cattle trade and make publicly available a joint report within 30 days that will identify data currently available from each side; requests for additional data; and a proposal to address the needs for additional data.

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It is intended that the additional data will include the number of cattle on feed, cattle inventory and cattle slaughter.

6. In-Transit Movement of Grain by Rail

The Canadian Food Inspection Agency (CFIA) has developed an alternative certification program that will permit shipments of wheat, oats, barley, rye and/or triticale, excluding seed, to transit through Canada based on a certificate of origin in lieu of a phytosanitary certificate with mandatory sampling and testing. This will allow U.S. grain to be shipped on the Canadian rail system to final destinations in the United States. A certificate of origin from a state authorized under the program will be acceptable for grain if it meets all of the following conditions:

- * the grain originates in U.S. approved states;
- * the grain will transit through Canada only by rail (in sealed hopper cars);
- * the grain will return to the United States; and
- * the grain will not be unloaded in Canada.

The areas identified to participate in this program include the areas of Minnesota, Montana and North Dakota that are recognized free of Karnal bunt, wheat flag smut, and dwarf bunt. This program will become effective as soon as possible but no later than January 1, 1999 for the states of Minnesota, Montana, and North Dakota. The program will be reviewed, in cooperation with the United States, six months after implementation with a view toward expanding the program to other interested states meeting the same program and science-based criteria as soon as possible.

7. Wheat Access Facilitation Program for Canadian Licensed Primary Elevators Handling U.S. Wheat

The program will improve access for U.S. farmers to primary elevators in Western Canada, while preserving the integrity of the Canadian grain quality control system. The program codifies the rules for handling of U.S. wheat by licensed Canadian primary elevators. It will enter into force on January 1, 1999.

The Canadian Grain Commission (CGC) is giving advanced authorization to handle imported wheat from the United States for those primary elevators that have indicated a desire to participate in the Wheat Access Facilitation Program. Currently, 4 grain companies have proposed a total of 27 facilities for the program, most of which are located within 60 miles of the Canada-U.S. border.

The program facilitates U.S. wheat being trucked and sold by or on behalf of U.S. producers to participating Canadian primary elevators for storage and forwarding to domestic markets or

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export locations. This program complements existing arrangements that facilitate the direct movement of U.S. wheat and barley to Canadian feedlots, feed mills and flour mills.

Canada and the United States will jointly publish a fact sheet by January 1, 1999, explaining the program and how producers can participate in the program.

Within six months of implementation, Canada, in cooperation with the United States, will examine how the program has functioned with a view toward ensuring that it is working effectively and identifying potential ways to streamline procedures including inspections. Within the twelve month initial phase of implementation, Canada, in cooperation with the United States, will review the program. The review will include the clarity of the information provided to U.S. and Canadian producers, the volume of shipments under the program, the effect of Canadian Customs procedures and CGC inspections, and comments from U.S. and Canadian producers and Canadian elevators. The twelve month review will also consider procedures under the program with a view to streamlining and reducing costs of the program within 30 days of conclusion of the twelve month review.

This program will not be extended to any state that fails to exempt Canadian grain from state research and promotion check-off programs in a manner equivalent to that granted to grain from other sources.

8. Phytosanitary requirements for the importation of U.S. wheat and other cereals into Canada

Wheat Access Facilitation Program - Phytosanitary Requirements:

A procedure has been developed with the cooperation of the Canadian Food Inspection Agency (CFIA) and the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA-APHIS) that will reduce the amount of sampling and testing required for U.S. growers participating in the Wheat Access Facilitation Program.

Individual participants (growers) may ship wheat under a "Master Phytosanitary Certificate" without the requirement to have each individual shipment tested. Wheat must originate from an approved grower in states eligible under the program, and at least one sample per grower, per crop, must be officially tested and found free of Karnal bunt spores. The Master Phytosanitary Certificate must additionally satisfy requirements for dwarf bunt and flag smut based on area freedom or official testing as appropriate.

This program will be implemented for North Dakota and Montana by January 1, 1999. The program will be reviewed, in cooperation with the United States, six months after implementation with a view toward expanding the program to other interested states meeting the same program and science-based criteria as soon as possible.

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Karnal Bunt

Following the recent review of U.S. National Karnal Bunt Survey data and the confirmation that no spores of Karnal bunt were found in the non-infested states, CFIA has worked with USDA-APHIS to develop a certification program that permits wheat to be imported into Canada without the current requirement for testing. Under this program, wheat from approved states will be accompanied by a phytosanitary certificate that certifies that the grain is produced in and shipped from a state that has been officially surveyed and found free from Karnal bunt.

Following discussion with USDA-APHIS to address concerns with the domestic movement of grain from the infested areas, Canada will be prepared to implement the above-mentioned program in a progressive, risk based approach, as follows:

- after 3 years of national surveys, the states of MT, ND, MN, WI, MI, ME, VT, NH, NY, MA, PA, NJ, RI and CT;
- after 4 years of national surveys, all of the United States except the infested states;
- after 5 years of national surveys, all of the United States except infested areas of the infested states.

Canada will initiate the process to implement the above mentioned program immediately with a view to operationalize the above program for the first tier of states by March 31, 1999.

Cereals (Wheat, barley, rye, oats)

As confidence is built through the Wheat Access Facilitation Program, the In-Transit Rail Program, and the above-mentioned phytosanitary certification program, the CFIA will consider further steps toward recognition of area freedom for Karnal bunt, dwarf bunt, and wheat flag smut. CFIA and APHIS will initiate discussions on the use of alternative certification to the issuance of phytosanitary certificates for all cereals to recognize area freedom for Karnal bunt, wheat flag smut and dwarf bunt. As a first step, the Canadian Food Inspection Agency will review the Pest Risk Assessments (PRA) for each of the 3 diseases.

9. Other Grain Related Issues

Grain Trade Consultations

In order to strengthen cooperation and trust on issues of mutual interest, Canada and the United States agree to meet quarterly, or more frequently on request, to consult on global grain production and marketing. Such consultations shall include the following:

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- A projection of each country's respective production, utilization and ending stocks of grain (including wheat, barley, corn and oats) for the current marketing year;
- A projection of the quantity, by commodity (including in the case of wheat, separate projections for durum), of grain likely to be exported by each country to the other in the current marketing year;
- A projection of each country's use of subsidies, credit, or other means to facilitate grain exports; as well as the use of aid programs (involving grain); in the current marketing year;
- A review of actions by third countries that may have an impact on global grain trade; and,
- Such other grain production and marketing issues as may be raised by either country.

The first such consultations shall occur not later than February 1, 1999.

10. Seed Trade

The Canadian Food Inspection Agency (CFIA) and the Agricultural Marketing Service, U.S. Department of Agriculture agree to meet with interested state, provincial and industry representatives in the first quarter of calendar year 1999 to develop initiatives to streamline requirements and facilitate seed trade.

11. Export Subsidies (Oats)

Canada and the United States note that in the last crop year more than 700,000 tons of heavily-subsidized European Union (EU) oats were imported into North America. So far this crop year, more than 290,000 tons have been imported. Noting that the EU has eliminated barley export subsidies to North America, Canada and the United States have agreed to consider what steps might be warranted to achieve a similar result for oats.

12. Veterinary Drugs

Both the United States and Canada have stringent, scientifically based programs for the pre-market approval of veterinary drugs. While there are some differences in the regulatory approaches adopted, the outcomes are essentially equivalent in the protection of public health in the two countries.

A comparison made by the U.S. Food and Drug Administration and Health Canada has also indicated that both countries have prohibited most of the same veterinary drugs for food producing animals.

To avoid future disruption in bilateral trade, Canada and the United States have agreed to the following initiatives with respect to veterinary drugs:

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- Prepare by April 30, 1999, a side-by-side comparison of veterinary drugs approved for use in both countries, the food-producing animals to which these drugs can be administered, and the maximum residue limits (MRLs) established for any foods resulting from such use.
- Bilaterally, work toward joint evaluation of drug submissions, and the harmonization of MRLs for veterinary drugs which apply to domestic and imported foods.
- Trilaterally with Mexico, implement an effective work plan for the Technical Working Group on Veterinary Drugs under the North America Free Trade Agreement Sanitary and Phytosanitary Committee.
- Multilaterally, work with Mexico to cooperate closely on matters related to the Codex Committee on Residues of Veterinary Drugs in Foods.

13. Pest Control Products

To avoid future disruption in bilateral trade, Canada and the United States agree to the following initiatives with respect to pest control products:

- The U.S. Environmental Protection Agency (EPA) and the Canadian Pesticide Management Regulatory Agency (PMRA) will work with growers and registrants in both countries to accelerate bilateral harmonization using the five year North American Initiative developed by the NAFTA Technical Working Group on Pesticides as the framework. As a result of these efforts, there will be great potential for faster and simultaneous access to a wider range of pest control products for both major and minor crops in both countries. However, the success of this initiative hinges on the full and active participation of growers and registrants in both countries.
- EPA and PMRA will continue to cooperate with respect to U.S. implementation of the Food Quality Protection Act.
- EPA and PMRA are committed to work together to develop a harmonized policy for movement of treated seeds by December 1999.
- EPA and PMRA will investigate mechanisms to improve links with state/provincial/territorial officials as a way of providing improved information sharing and a heads up mechanism for potential pesticide/trade issues.
- Canadian canola growers have requested Canadian registrants to agree voluntarily to remove canola/rapeseed claims from labels of registered canola seed treatments containing lindane by December 31, 1999. All commercial stocks containing lindane

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for use on canola and lindane treated canola seed would not be used after July 1, 2001. This is contingent on registrants requesting voluntary removal. EPA, PMRA, growers and registrants will continue to work together to facilitate access to replacement products.

- For those specific canola registration reviews undertaken by the EPA on an accelerated basis, EPA and the PMRA will share work on evaluation of pesticide products to the furthest extent possible.
- EPA and PMRA will request U.S. and Canadian canola associations to prioritize pesticide registration needs from a list of pesticides now available in either country which are pending approval in the other country. The associations, in consultation with pesticide registrants, would also be asked to identify alternatives to pesticides such as organophosphates (OPs) or others with risk concerns. The resulting list will then be a basis for a longer term strategy to assure adequate, reduced risk pest control tools for canola growers and will fit with current NAFTA efforts to promote a coordinated approach to Integrated Pest Management for canola.
- For dry beans (pulses), lentils, and flax (crops grown in rotation with canola), EPA and PMRA will request that growers, in consultation with pesticide registrants in the United States and Canada, identify and prioritize pest control tools and needs for purposes of identifying grower priorities for the agencies. EPA and PMRA will jointly explore efforts to share work on evaluation of pesticide products.
- The U.S. Department of Agriculture (USDA) and Agriculture and Agri-Food Canada, in conjunction with EPA and PMRA, will convene, preferably by March 1999, a high level meeting with Chief Executive Officers of North American pesticide companies to encourage companies to take advantage of the pesticide joint review process and to encourage industry's role in harmonization goals.
- USDA and Agriculture and Agri-Food Canada will jointly conduct a study of pesticide price differentials within the United States and Canada to be completed within 6 months.

14. Horticulture

Produce Pesticide Testing

Canada and the United States have stringent, scientifically-based programs for the evaluation and monitoring of pesticide residues. While there are some differences in the regulatory approaches adopted, the outcomes provide essentially equivalent protection of public health.

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The Food and Drug Administration and Canadian Food Inspection Agency agree to work toward reducing the sampling of fresh produce through the exchange of scientific data, sampling plans and results, and taking such information into consideration in the development of annual national sampling plans. Both agencies agree to review the operation of import procedures with a view toward taking steps to streamline programs.

Bacterial Ring Rot Testing

In December 1998, the U.S. Department of Agriculture (USDA) and CFIA agree to work with appropriate industry, state, provincial and scientific representatives to explore the benefits and possible implementation of harmonizing testing procedures for bacterial ring rot of potatoes.

Potatoes

Canada and the United States agree to work aggressively and quickly to resolve outstanding potato industry issues. Canada and the United States agree to ask the U.S.-Canada Ad Hoc Potato Committee to review the issue of regulatory differences and restrictions affecting bilateral trade in potatoes and provide a report to Ministers by September 1, 1999, on how these issues might be addressed with a view to facilitating bilateral trade.

Nursery Stock Phytosanitary Requirements

The United States currently restricts certain nursery stock from Canada that has originated in other countries, and then is grown for a time in Canada, to be exported to the United States. USDA and CFIA agree to form a joint working group charged with moving this toward a resolution by prioritizing the regulatory changes in order to harmonize import requirements for nursery stock from offshore sources. The working group will meet initially the first quarter of 1999 with a view to identify and prioritize species where differences exist and identify time lines for implementation of harmonization measures.

15. Joint Cooperation on Biotechnology

Canada and the United States have enjoyed continued cooperation in the area of agricultural biotechnology. Both countries use a science based approach to regulating products of biotechnology, including, but not limited to genetically enhanced products. This approach means that regulatory decisions are predicated on a critical assessment of the best available scientific information about the product and not on the process used to develop it.

In September 1998, Canadian and U.S. regulatory officials signed a technical agreement on the regulatory requirements for the assessment of specific aspects of transgenic plants. Canadian and U.S. regulatory officials will continue to meet to compare and harmonize where

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possible, the regulatory review process for transgenic plants and to discuss and prioritize future areas of cooperation and information exchange that will facilitate the safe incorporation of transgenic plants into agricultural production and commerce.

Canada and U.S. policy officials will continue to meet to discuss cooperation on multilateral biotechnology issues. Canada and the United States will continue to work closely in areas relating to biosafety including the U.N. Biosafety Protocol. Canada and the United States share common views on the subject of biotechnology in both the Sanitary and Phytosanitary and Technical Barriers to Trade Committees of the World Trade Organization. In addition, both countries are exploring the issue of how to deal with biotechnology within the WTO and its subsidiary agreements as well as other fora such as the Organization for Economic Cooperation and Development, CODEX Alimentarius Commission and Asia-Pacific Economic Cooperation. Canada and the United States will also work together to promote the science-based approach to regulating biotechnology, including capacity-building.

16. Labeling

Canada and the United States recognize the integrated nature of the North American agriculture and food economies and agree that country of origin labeling requirements on agricultural and food products will be consistent with obligations under the North American Free Trade Agreement and the World Trade Organization Agreement

17. Sugar Containing Products

No later than June 1, 1999, the United States will require an export permit issued by the Government of Canada as a condition of entry into the United States for sugar-containing products of Canadian origin for which the exporter or importer is claiming preferential tariff treatment. The products for which export permits will be required as a condition of entry will be sugar-containing products provided for in additional U.S. Note 6 to Chapter 17 of Schedule XX of the United States annexed to the Marrakesh Protocol to the GATT 1994, as currently reflected in note 8 of Chapter 17 of the Harmonized Tariff Schedule of the United States.